

1 *E-filed on* 1/3/07

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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION  
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12 IN RE CYGNUS TELECOMMUNICATIONS  
13 TECHNOLOGY, LLC, PATENT  
LITIGATION

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15 THIS ORDER RELATES TO:  
All Actions

No. MDL-1423  
This Order Applies to All Actions

C-02-00142 RMW  
C-02-00145 RMW  
C-02-05437 RMW  
C-03-03378 RMW  
C-03-03594 RMW  
C-03-03596 RMW  
C-03-04003 RMW  
C-04-03001 RMW  
C-04-03365 RMW  
C-04-04247 RMW  
C-04-04359 RMW  
C-06-03843 RMW  
C-06-04295 RMW  
C-06-06479 RMW

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21 ORDER DEEMING MOTIONS SUBMITTED  
22 ON THE PAPERS & TEMPORARILY  
BARRING FURTHER FILING OF MOTIONS

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24 The court held a hearing on claim construction and several related motions for summary  
25 judgment on November 21, 2006 and has not yet issued a ruling. On December 1, 2006, plaintiff  
26 Cygnus Telecommunications Technology, LLC filed what it styled a revised motion for summary  
27 judgment against defendant United World Telecom, L.C. ("UWT"). UWT and defendant AT&T  
28 Corp. filed separate responses, asking the court to strike Cygnus's latest filing. AT&T asked, in the

ORDER DEEMING MOTIONS SUBMITTED ON THE PAPERS & TEMPORARILY BARRING FURTHER FILING OF  
MOTIONS—MDL-1423


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1 alternative, for leave to file a response, arguing that Cygnus's motion, although ostensibly directed  
2 against only UWT, in reality covered issues common to all defendants.

3 Cygnus's revised motion and the defendants' counter-motions are all deemed submitted on  
4 the papers. No hearing will be held. No further filings will be accepted in connection with these  
5 motions.

6 In fact, until the court resolves all pending issues related to claim construction, validity of the  
7 patents-in-suit, and infringement liability of individual defendants, no party should file any further  
8 substantive motions. Permissible filings would be things like a notice of PTO action,<sup>1</sup> notice of a  
9 relevant recent decision, scheduling matters involving recently-served defendants,<sup>2</sup> or stipulations  
10 regarding settlement.

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13 DATED: 1/3/07

  
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RONALD M. WHYTE  
United States District Judge

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25 <sup>1</sup> The court is aware that on December 19, 2006, the PTO issued a final rejection of claims 6  
26 through 11 in the reexamination of U.S. Patent No. 6,035,027.

27 <sup>2</sup> On September 20, 2006, the court instructed Cygnus to show cause by December 20, 2006 why  
28 any defendant in case no. C-06-04295 remained unserved, but the docket for that case shows no  
case-specific activity. Similarly, the court expected a joint scheduling proposal from the parties in  
case no. C-06-06479 some time ago but has not yet received one.

**A copy of this order was mailed on \_\_\_\_\_ to:**

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Counsel is responsible for distributing copies of this order to co-counsel, as necessary.